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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

UNITED STATES OF AMERICA, CR 05-60008

Plaintiff,

v.

**REPLY TO GOVERNMENT'S
RESPONSE TO MOTION FOR
SENTENCING DISCOVERY**

PIROUZ SEDAGHATY,

Defendant.

The government's response to Mr. Sedaghaty's Motion for Sentencing Discovery requires a response on two points: the exculpatory nature of the material sought and the obligation of the United States government to produce

information in possession of the Russian Federation.

A critical issue with respect to the proposed testimony from Colonel Ignatchenko is the veracity of his claim that the Russian Federation recorded the conversation between Aqeel Al Aqeel and Mr. Khattab, but then destroyed the conversation in the normal course. The declaration from Colonel Lang casts serious doubt on that. Much of the additional evidence sought in the Motion for Discovery goes directly to that question and is, therefore, exculpatory and discoverable under the applicable rules, statutes, and Constitution.

With respect to the government's assertion, reliance on *United States v. Chavez-Vernaza*, 844 F.2d 1368, 1375 (9th Cir. 1987), the government's pleading proves too much. In it, the government admits that "the United States and Russian Federation have entered into a treaty which requires both countries to assist the other in providing evidence relevant to criminal prosecution." That statement places the material in the possession of the Russian Federation squarely within the joint investigation rule articulated in

Chavez-Vernaza and United States v. Bryan, 868 F.2d 1032 (9th Cir. 1989).

Respectfully submitted on November 18, 2010.

/s/ Steven T. Wax

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Federal Public Defender

/s/ Lawrence H. Matasar

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